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MEMORANDUM FOR: Legislative Counsel

ATTENTION : []
Deputy Legislative Counsel

FROM : John F. Blake
Deputy Director for Administration

SUBJECT : Comments on New SSCI Draft of a Revised
Intelligence Charter

1. Pursuant to your request, this memorandum contains some comments relating to the new SSCI draft of legislation relating to a revised intelligence charter. In ~~our~~^{our} comments we have deliberately avoided ~~speaking to~~^{addressing} minor points that could be addressed but which, in our opinion, ~~are~~^{are} unimportant at this very preliminary stage in the process. Rather, we have attempted to speak to the basic concept itself and then to address certain specific points that we consider require early clarification.

2. The concept of the establishment of the position of the Director of the National Intelligence Authority, who does not wear another hat as the head of any intelligence entity and who has strong budget authority, could provide important improvements over the present situation. Examples of such improvements would include:

a. The President could look to one individual whom he could hold responsible, in a real sense, for the activities, management and effectiveness of the community. *There has been some question on the part as to whether such a person exists.*

b. With the centralization of the budget control for the entire community, it should be possible to eliminate duplication, ensure that marginal activities are eliminated, and more adequately adjudicate conflicting requirements for resources.

c. Parochialism and conflict between the components of the intelligence community could be handled and resolved at a level lower than that of the National Security Council or the President in those cases where it was desirable.

d. The political and bureaucratic irritant that has often times been fostered by the dual role of the Director of Central Intelligence would be eliminated.

2. In order for these improvements to be fully realized, however, certain clarification of the proposed legislation would appear to be required. In Sec. 6 (a) of the proposed bill dealing with the authority and duties of the Director, it is stated that he is to direct and control the intelligence activities of the United States. The meaning of the words "direct and control" need more precise definition.

The proposed law makes it clear that direction and control as exerted through the budget process clearly exists. The definitions are not so clear as relates to the command authority that the Director would be granted. Since at present CIA reports to the National Security Council and since the proposed DNIA would also report to the National Security Council, the question of command of CIA as such would seem easily solvable. On the other hand, the other components of the intelligence community which now report directly or indirectly to cabinet officers do pose command and control problems. If it is proposed that they would be either now, or in the future, made directly subordinate to the DNIA in a command sense, this should be clearly spelled out in the law. Likewise, the role of the Assistant Directors should be clarified in terms of whether or not they have command responsibility.

3. Speaking to the negative aspects of the proposed concept, of primary concern is the fact that the proposed legislation is silent as regards the funds which will be required for the new authority and the numbers of people to be assigned to it. The possibility of a bureaucratic expansion with its resultant difficulties and costs certainly exists. If it is the intent of the drafters of the legislation that the resources for the National Authority would be

drawn from existing elements of the community, they should be made aware that this would interfere in many cases with the abilities of these entities to continue to properly carry out their individual statutory responsibilities.

4. Another possibly troublesome aspect of the concept is the responsibility that the proposed law places on the DNIA to report simultaneously to both the executive and legislative branches of the Government. Such a responsibility runs in the face of our traditional concept of separation of powers within the Government. While the apparent dilemma is probably not unsolvable, any legislation should be more precise in how it will be accomplished while still maintaining the separation referred to above.

5. Should the command and control questions raised above not be resolved, the centralized budget function of the DNIA might pose extremely difficult, if not illegal, problems. The most dramatic example of this would be a situation created by this proposed bill where the Secretary of Defense would retain command authorities over large and costly entities but have none of the traditional powers and authorities relating to budgets for those entities. We believe this could do real violence to his role.

6. Speaking specifically to portions of the proposed bill which we feel require further definitions, we note that under Sec. 6 (d) (13) that the DNIA shall "be responsible for all relationships between the various entities of the National Intelligence Authority and the security services of foreign governments, including any agreements, arrangements, or understandings governing such relationships...." We would hope that what is meant here is a supervisory role as relates to clandestine liaison rather than a participatory one. However, this point is not clear.

7. Another section requiring further clarification is Sec. 6 (d) (4). In this section, the DNIA is directed to "provide for the effective and efficient direction, management, and coordination of the entities which make up the National Intelligence Authority." Here, again, as regards the word management, we would assume that only a supervisory or monitoring role is envisioned. However, this is not clear.

8. {A basic consideration that arises in review of the proposed legislation is the question of whether or not an expanded organization such as is called for, or at least implied by this legislation, is required. If, as some believe, many of the past problems have developed through the dual role of the DCI and the resultant resistance to him on charges of parochialism or bias, then a point can be

made that a more economical solution to attempt is the mere
elimination of the dual role. *fact, a question arises as to whether or not*
relatively simple legislation
could be proposed which would establish the position of the
Director of the CIA while at the same time providing for a
Director of ~~NIA~~, or whatever, who would take with him the
intelligence staff would be required
~~IC~~ Staff and function as a coordinator of the community
without allegiance to any particular part of it. Whether
or not this approach would work or would be effective is
conjectural. *The point is, however, that it has never been*
tried and that it might possibly work while at the same time
posing fewer problems than the expanded organization implied
by the new proposed legislation.

John F. Blake

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SUBJECT: (Optional)

DD/A Registry

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FROM: Legislative Counsel
6C19 HQ

EXTENSION

NO.

DATE

21 March 1977

TO: (Officer designation, room number, and building)

DATE

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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FORWARDED

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7D18 HQ

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Attached is a new SSCI draft of a revised intelligence charter. It is largely based upon the earlier draft which we reviewed last week. It appears that there is a developing consensus that charter reform will be dominated by the PRM II process. However, we are under instructions to be prepared for negotiations with the Select Committee on their bill, and we are anticipating the creation of a task force for that purpose. For now, please review the attached draft and identify those areas where you would recommend changes. We would like to receive your comments by noon on Friday, 25 March 1977. Thank you.

Deputy Legislative Counsel

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PROPOSED MASTER OUTLINE

- I. Creation of a National Intelligence Authority for the collection, production and analysis of foreign intelligence and foreign counterintelligence information.
 - A. Purpose of a National Intelligence Authority
 - B. Powers of the National Intelligence Authority
 - C. Composition of the National Intelligence Authority
 - D. Direction and Control of a National Intelligence Authority
 - E. Duties of the Director of the National Intelligence Authority
- II. Entities of the National Intelligence Authority
 - A. National Security Agency Charter
 - 1. SIGINT and COMSEC missions
 - 2. Prohibitions and Procedures
 - a. Prohibition on targeting of U.S. persons other than via warrant procedures
 - b. Procedures for the approval of warrantless SIGINT activities
 - c. Procedures for the retention and dissemination of information on U.S. persons
 - B. Central Intelligence Agency Charter
 - 1. Covert action missions
 - a. Standards for the employment of covert action
 - b. Procedures for review of proposals, monitoring, and evaluation
 - c. Prohibitions such as those on assassination of foreign leaders and the overthrow of democratically elected governments
 - 2. Clandestine human collection

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3. Counterintelligence
 - a. Role of the DNI in allocation of resources and the Attorney General in determination of legality and propriety of activities
 - b. CIA role in formulating counterintelligence strategy
 - c. Procedures for review and control of CIA counterintelligence activities abroad
 - d. Relationship with the FBI in the United States
- C. Defense Intelligence Agency Charter
- D. Federal Bureau of Investigation Charter
- E. Liaison with Foreign Police and Foreign Intelligence Services
 1. Applicability to all intelligence and law enforcement agencies
 2. Control by the Director of National Intelligence
 3. Reporting to Congress of agreements and understandings
 4. Prohibition on use of liaison services as agencies to avoid imposed restrictions
 5. Rules on retention and dissemination of material on U.S. persons received from foreign liaison services

III. Activities of the NIA likely to affect the rights of Americans

- A. Covert investigations of Americans who may be engaged in espionage, clandestine intelligence activities or international or transnational terrorism; who may be security risks or may be responsible for security leaks; and covert investigations of foreigners who may be engaged, within the U.S., in espionage, clandestine intelligence activities or international or transnational terrorism.
- B. Overt collection of foreign intelligence from witting foreigners and Americans within the U.S.
- C. Covert recruitment of foreigners and Americans within the U.S. to engage in espionage abroad on behalf of the U.S.
- D. Covert monitoring of entrance and egress from the U.S.
- E. Approved For Release 2003/10/01 : CIA-RDP80-00473A000200120003-8
of information obtained by the IRS and on the face of the U.S. mails

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- F. Judicial warrant procedures for certain extraordinary covert techniques which constitute search and seizure
- IV. Authority of the Attorney General to investigate domestic terrorism and to gather information pertaining to civil disorders.
- V. Redefining criminal sanctions and administrative statutes pertaining to counterintelligence
 - A. Repeal or modification of the speech and registration statutes
 - B. Strengthening the espionage statutes
- VI. Insuring compliance with the charter
 - A. Attorney General responsibility for internal executive branch oversight of compliance with the law and Constitution
 - B. General Counsel and Inspectors General
 - C. Administrative Rulemaking and increased disclosure
 - D. Civil Remedies and Criminal Penalties

NOTE ON CONCEPT OF THE NATIONAL INTELLIGENCE AUTHORITY ACT

The bill creates a National Intelligence Authority made up of all existing national intelligence entities. It establishes a Director of National Intelligence, a Deputy Director of National Intelligence, and three Deputy Directors for Technology, Operations and Intelligence Estimates respectively. It assigns a clear line of authority over national intelligence from the President, through the NSC, to the Director for National Intelligence. The bill assigns missions, responsibilities, limitations and accountability to all national intelligence entities. It provides clear authority to the Director for the direction of all national intelligence activities. The bill would not change the operations of any of the components of the national intelligence community. The NSA, for example, would continue as it does now, to operate, collect, and disseminate all signals intelligence under the tasking, coordination, guidance, and direction of the Director of Central Intelligence. The NRO would continue to handle, as it does now, the day to day operations of the satellite and other national overhead reconnaissance programs under the direction and tasking of the Director of Central Intelligence.

It should be stressed that the bill does not abolish any existing entities. It does, however, give the President the authority and the means to make the internal organizational modifications he might deem best within the overall guidelines of mission responsibility and accountability. If, in the course of two years or so, new permanent intelligence organizational structures are thought by the President and the Congress to be desirable, these changes can be

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made at that time by (an amendment to the National Intelligence Authority Act.

In summary, therefore, the National Intelligence Act assigns clearly defined authority, duties and accountability for national intelligence, and gives the President maximum flexibility to make whatever organizational changes seem required to strengthen the effectiveness of the national intelligence system without changing the existing intelligence agencies and departments at the outset.

This package contains the proposed legislation,
followed by a section-by-section analysis.

IN THE SENATE OF THE UNITED STATES

Mr. _____

introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve the national intelligence system of the United States by the establishment of a National Intelligence Authority, and for other purposes.

(Insert title of bill here)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Intelligence Act of 1977".

Sec. 2. It is the purpose of this Act --

(1) to insure that all intelligence activities of the United States are properly, effectively and efficiently directed, regulated, coordinated, and administered;

(2) to provide the executive and legislative branches of the government with such accurate, relevant, and timely information and analysis as may be necessary to enable such branches to (A) make sound and informed decisions regarding the security and vital interests of the United States, and (B) protect the United States against foreign espionage, sabotage, clandestine intelligence activities, assassination, terrorism, and other forms of foreign aggression; and

(3) to insure that the intelligence activities of the United States do not infringe upon or violate those individual

DEFINITIONS

Sec. 3. (1) The term "intelligence activities"
means --

(A) the collection, file retention, analysis, production, or dissemination of information, including political, economic, scientific, technical, military, cultural, sociological, and geographic information which relates to any foreign country, or any government, political group, party, military force, movement, or other association of persons in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and any activity which is in support of any of such collection, file retention, analysis, production, dissemination, or use of information;

(B) any activity taken to counter any activity similar to any activity described in clause (A) directed against the United States;

(C) any special activity which is any activity other than the collection and production of information and analysis and related support functions, which is designed to further official United States programs and policies abroad and which is planned and executed so that the role of the United States Government is not apparent or publicly acknowledged and which is carried out under the direction of the National Security Council and subject to the oversight of the appropriate committees of the Congress.

(2) The term "national intelligence" means information and analysis related to the national defense, national security

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and foreign policy interests of the United States, which information is used primarily by national policymakers such as the President, the National Security Council, and the Congress. It does not usually include that information and analysis which is used primarily by departmental or agency heads or tactical commanders of United States armed forces, and which has no significant national policy-making purpose.

(3) The term "national intelligence activity" means intelligence activities for the purpose of producing national intelligence. It includes the activities of (A) the Central Intelligence Agency, (B) the Defense Intelligence Agency, (C) the National Security Agency, (D) the intelligence components of the Federal Bureau of Investigation, (E) the Special Offices for Reconnaissance Activities, (F) the Bureau of Intelligence and Research of the Department of State, (G) the intelligence components of the Department of the Treasury, (H) the intelligence components of the Energy Research and Development Administration; and (I) such other activities as the President shall designate.

(4) The term "tactical or departmental intelligence" means information and analysis which is used primarily by departmental or agency heads or tactical commanders of United States armed forces, and which has no significant national policy-making purpose.

(5) The term "tactical or departmental intelligence activities" means intelligence activities other than special activities in support of national foreign policy objectives for the purpose of producing tactical or departmental intelligence.

(6) The term "intelligence community of the United States" means all entities of the Federal Government to the extent that such entities are engaged in national intelligence activities, including, but not limited to (A) the Central

(C) the National Security Agency, (D) the intelligence components of the Federal Bureau of Investigation, (E) the Special Offices for Reconnaissance Activities, (F) the Bureau of Intelligence and Research of the Department of State, (G) the intelligence components of the Department of the Treasury, (H) the intelligence components of the Energy Research and Development Administration, and (I) such other entities as are engaged in national intelligence activities as designated by the President.

(7) The term "national of the United States" means (A) a citizen of the United States, or (B) a person, though not a citizen of the United States, who owes permanent allegiance to the United States.

(8) The term "special activities" means activities other than the collection, correlation, production, and dissemination of information and analysis and related support activities which are designed to further official United States programs and policies abroad and which are planned and executed so that the role of the United States Government is not apparent or publicly acknowledged and which are carried out under the direction and control of the National Security Council and subject to the oversight of the appropriate committees of the Congress.

(9) The term "Attorney General" means the Attorney General of the United States.

(10) The term "continuing resolution" means a joint resolution of the Congress appropriating funds for one or more departments or agencies of the government for a temporary period of time pending the enactment of the regular appropriation Act or Acts for such departments or agencies.

NATIONAL INTELLIGENCE AUTHORITY; FUNCTION

Sec. 4. (a) There is established in the Executive Branch an office to be known as the National Intelligence Authority which shall operate under, and be subject to the direction and control of, the National Security Council.

(b) The National Intelligence Authority shall be composed of all entities of the intelligence community of the United States.

(c) It shall be the function of the National Intelligence Authority to collect, analyze, and disseminate, to the executive and legislative branches of the government, accurate, relevant, and timely intelligence information and analysis. It shall also be the function of the National Intelligence Authority to engage in special activities in support of national foreign policy objectives of the United States pursuant to the provisions of Sec. ____ of this Act.

DIRECTOR AND DEPUTY DIRECTOR

Sec. 5. (a) The National Intelligence Authority shall have as its head a Director of National Intelligence (hereinafter referred to as the "Director"). There shall also be a Deputy Director of National Intelligence to assist the Director in carrying out the functions of the National Intelligence Authority and to act in the place of the Director during the absence or disability of the Director.

(b) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, and each shall serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than six years unless such person is reappointed by the President, by and with the advice and consent of the Senate. No person who has served as Director or Deputy Director for a period of less than six years and is

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subsequently appointed or reappointed to that same office may serve in that office under such appointment or reappointment for a term of more than six years. In no event may any person serve as Director or Deputy Director for more than a total of twelve years. At no time shall the two positions of Director and Deputy Director be occupied *same* simultaneously by commissioned officers of the armed services whether in active or retired status.

(c) (1) If a commissioned officer of the armed services is appointed as Director, or Deputy Director, then--

(A) in the performance of his duties as Director or Deputy Director, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof; and

(B) he shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Director, or Deputy Director) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit, or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this subsection, the appointment to the office of Director, or Deputy Director, of a commissioned officer of the armed services, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed services, or any emolument, perquisite, right,

privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving in the office of Director, or Deputy Director, continue to hold rank and grade not lower than that in which serving at the time of his appointment and to receive the military pay and allowances (active or retired, as the case may be, including personal money allowance) payable to a commissioned officer of his grade and length of service for which the appropriate department shall be reimbursed from any funds available to the National Intelligence Authority. He also shall be paid by the National Intelligence Authority from such funds an annual compensation at a rate equal to the amount by which the compensation established for such position exceeds the amount of his annual military pay and allowances.

(3) The rank or grade of any such commissioned officer shall, during the period in which such commissioned officer occupies the office of Director of National Intelligence, or Deputy Director of National Intelligence, be in addition to the numbers and percentages otherwise authorized and appropriated for the armed service of which he is a member.

(d) The Director shall serve as an ex officio member of the National Security Council.

AUTHORITY AND DUTIES OF THE DIRECTOR

Sec. 6. (a) It shall be the duty of the Director, under the direction and control of the National Security Council, to direct and control the national intelligence activities of the United States. The President shall determine, with the guidance and assistance of the National Security Council and the Director which intelligence activities of the United States constitute national intelligence activities subject to the direction and control of the Director.

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(b) The Director is authorized to review all departmental or tactical intelligence activities and all intelligence-related activities of the United States.

(c) The Director shall make such recommendations to the President, the National Security Council, and the appropriate committees of the Congress as he deems appropriate regarding any intelligence activity or any proposed intelligence activity of the United States.

(d) The Director shall also--

(1) serve as the President's primary advisor on matters relating to national intelligence and provide the President and other officials of the executive branch of the government with accurate, relevant, and timely information analysis;

Good (2) keep the President and the committees of Congress having jurisdiction over the National Intelligence Authority fully and currently informed of all national intelligence activities of the United States, including any significant anticipated national intelligence activity, which are the responsibility of or are engaged in by any entity of the National Intelligence Authority; but the foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the implementation of any such anticipated national intelligence activity;

(3) keep the President, the National Security Council, and the appropriate committees of the Congress informed on the relationship between national intelligence activities and the departmental and tactical intelligence activities of the United States and all intelligence-related activities of the United States;

(4) provide for the effective and efficient direction, management, and coordination of the entities which make

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up the National Intelligence Authority;

(5) prepare an annual budget for presentation to the President which includes funds for all national intelligence activities of the United States;

(6) establish and be responsible for the allocation and control of all funds appropriated for carrying out national intelligence activities;

(7) establish requirements, develop plans, and assign priorities for all national intelligence activities of the United States, taking into account the need for the intelligence components of departments and agencies of the government to also perform departmental and tactical intelligence activities assigned by the heads of such departments and agencies;

(8) evaluate current and proposed intelligence activities to insure the efficient use of intelligence resources and the fulfillment of national intelligence requirements established pursuant to clause (7);

(9) supervise the operation of and make recommendations for, such review procedures as are consistent with the provisions of this Act and necessary for the effective review of proposals for the clandestine collection of intelligence;

(10) receive, correlate, analyze, and evaluate all national intelligence, taking into account the need to insure that diverse points of view are heard and considered;

(11) supervise the timely dissemination of national intelligence to all appropriate departments and agencies of the government

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protected by the Constitution or laws of the United States;

(12) make every reasonable effort to furnish to the departments and agencies of the government concerned and to all tactical commanders of the armed forces of the United States all relevant national intelligence;

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(13) be responsible for all relationships between the various entities of the National Intelligence Authority and the security services of foreign governments, including any agreements, arrangements, or understandings governing such relationships; provided, however, that no component of the National Intelligence Authority shall pay, cause, or encourage any agency of any foreign government to engage in activities which are prohibited to the components of the National Intelligence Authority. The Director of National Intelligence shall not be relieved of any requirement to report any activity to the Congress or to any committee of the Congress because such activity is carried out through or by any agency of a foreign government;

(14) submit all agreements, arrangements, and understandings described in clause (13) to the appropriate committees of Congress for review as required by law;

(15) assign to the components of the National Intelligence Authority responsibility for services of common concern as can best be performed centrally;

(16) coordinate with the Attorney General the counterintelligence activities of the United States directed against foreign espionage, sabotage, clandestine intelligence activities, assassinations, or terrorism, such coordination to include the review and evaluation of proposals for such activities as well as the monitoring

periodic reevaluation thereof for the purpose of insuring that such activities safeguard and do not abridge any right guaranteed or protected by the Constitution or laws of the United States;

(17) supervise the operation of, and make recommendations for, such review procedures as are consistent with the provisions of this Act and necessary for the careful evaluation of proposals for, and the monitoring and periodic review of, the conduct of special activities in support of national foreign policy objectives.

(18) develop security standards for the management and handling of national intelligence, for the granting of access to such national intelligence, and for entering into such lawful security agreements as are necessary for the protection of properly classified intelligence sources and methods;

(19) establish, in consultation with the Attorney General, procedures for the lawful protection, retention, disclosure, and dissemination of information acquired by the various entities of the National Intelligence Authority, but no such information may be retained, disclosed, or disseminated if it unduly infringes upon the privacy of any national of the United States or if it violates any right guaranteed or protected by the Constitution or laws of the United States;

(20) be responsible for (A) the establishment of security standards, priorities, and practices for the protection of United States communications, (B) monitoring the implementation of such standards, priorities, and practices by the departments and agencies of the government and contractor facilities concerned, and (C) taking all reasonable steps recommended by the Attorney General to protect the privacy of such communications;

(21) formulate, in consultation with the Secretary

of Defense, plans providing for use by the Secretary of Defense of such elements of the National Intelligence Authority as may be required in time of war;

(22) terminate the employment of any officer or employee of the National Intelligence Authority whenever he shall deem such termination necessary or advisable in the interests of the United States notwithstanding the provisions of Section 652 of Title 5, or the provisions of any other law, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission;

(23) assure (on the basis of advice given by the Attorney General) that the intelligence activities of the United States serve to safeguard and do not abridge any right guaranteed or protected by the Constitution or laws of the United States; and

(24) provide such administrative, technical, and support activities in the United States and abroad as may be necessary to carry out effectively and efficiently the duties of the Director and the functions of the National Intelligence Authority.

(e) Nothing in this Act shall be construed to prohibit any department or agency of the government from collecting, evaluating, and disseminating departmental and tactical intelligence if such department or agency is otherwise authorized to do so; and nothing in this section shall be construed to prohibit any entity of the National Intelligence Authority from producing its own analyses of national intelligence, but any such analyses shall be promptly submitted to the Director.

ASSISTANT DIRECTORS; STAFF; COMMITTEES AND BOARDS

Sec. 7. (a) (1) The President is authorized to appoint, by and with the advice and consent of the Senate, not more than three Assistant Directors of National Intelligence.

(2) The Assistant Directors of National Intelligence shall perform such duties as the Director shall prescribe. Such duties may include, but shall not be limited to (A) the coordination and assessment of the analysis, evaluation, production, and dissemination of national intelligence, (B) the review of proposals for, and the monitoring and direction of, United States clandestine collection, special activities, and the coordination of United States counterintelligence activities, and (C) the planning, development, and management of United States technical collection systems.

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(b) The Director is authorized to employ such personnel as may be necessary to assist in carrying out the functions of the National Intelligence Authority. Such staff may include, but shall not be limited to, persons employed by any entity within the National Intelligence Authority.

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(c) The Director is also authorized to establish such committees or boards as may be necessary to carry out effectively the provisions of this Act, including, but not limited to, committees or boards of intelligence collectors, producers, and consumers.

(d) The Director is also authorized to establish such advisory committees as may be necessary to provide expert advice regarding the administration of this Act. The names of all persons appointed to serve on any such advisory committee shall be submitted to the committees of the Congress having jurisdiction over the National Intelligence Authority, and, except when to do so would compromise the national

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security of the United States, the names of such persons
and a description of the committee or committees to which
they are appointed shall be published in the Federal Register

REPORT OF VIOLATIONS

Sec. 8. (a) The Director shall report to the Attorney General immediately upon the discovery of any intelligence activity which may constitute a violation of any right guaranteed or protected by the Constitution or laws of the United States, or of any other violation of law, or of any violation of an executive order, presidential directive, or departmental or agency rule or regulation.

(b) The Director and the Attorney General shall report, in a timely manner, to the President and to the appropriate committees of the Congress any violation described in subsection (a).

RECORDS

Sec. 9. (a) The Director shall maintain a complete record of all authorities, regulations, and guidelines affecting the national intelligence activities of the United States. A complete copy of such record shall be maintained in the Office of the Federal Register under conditions sufficient to protect the national security of the United States. The Director shall make such record available, upon request, to any committee of the Congress having jurisdiction over matters relating to the National Intelligence Authority.

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(b) The Director shall maintain a complete record of all decisions and implementing orders pertaining to the intelligence activities of the United States under his jurisdiction. The Director shall make such record available, upon request, to any committee of the Congress having jurisdiction over matters relating to the National Intelligence Authority.

Sec. 10. (a) No funds may be appropriated for any fiscal year beginning after September 30, 1977, for the purpose of carrying out any national intelligence activity unless such funds have been previously authorized for such activities by legislation enacted during the same fiscal year or the fiscal year immediately preceding the fiscal year for which they are appropriated, except that the foregoing limitation shall not apply to funds appropriated by any continuing resolution. The Congress and the President shall make available to the public information regarding funds appropriated and expended for intelligence activities of the United States to the extent required by Article I, section 9, clause 7, of the Constitution of the United States.

(b) (1) All funds for carrying out the national intelligence activities of the United States shall be appropriated to the Director. ILLEGIB

(2) Funds may be appropriated to the Director to cover matters relating to national intelligence activities of a confidential, extraordinary, or emergency nature; and the expenditure of such funds shall be accounted for solely on the certificate of the Director. Every such certificate shall be deemed a sufficient voucher for the amount certified therein. All other funds appropriated to the Director shall be subject to audit and review, subject to appropriate security standards, by the Comptroller General of the United States, at the request of the committees of Congress having jurisdiction over matters relating to the National Intelligence Authority, provided, however, that information resulting from such audits and reviews shall only be available to such committees of the Congress.

(c) The Director is authorized to establish a Contingency Reserve Fund and to credit to such fund any sums of money specifically appropriated to the Director for such fund. The Director is authorized to use funds from the Contingency Reserve Fund to cover the expense in any fiscal year of any national intelligence activity not anticipated at the time the President's budget for such fiscal year was submitted to the Congress and which the Director certifies are necessary to be protected against unauthorized disclosure. However, funds from the Contingency Reserve Fund may be expended only with the approval of the Office of Management and Budget and after the appropriate committees of the Congress have been given 72 hours' notice of the intent to expend such funds and the specific purposes, authorized under this Act, of such expenditure.

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ANNUAL REVIEW AND REPORT

Sec. 11. (a) There is hereby established a board to be known as the National Intelligence Authority Review Board (hereinafter in this section referred to as the "Board").

It shall be the function of the Board to conduct a comprehensive review and evaluation of the work of the National Intelligence Authority each year and report the results of that study and evaluation, together with such comments and recommendations as the Board may deem appropriate, to the President and the appropriate committees of the Congress.

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(b) (1) The Board shall be composed of nine members appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the first members of the Board shall expire as follows: three at the end of one year; three at the end of two years; and three at the end of three years. The terms of office of all

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successors shall expire three years after the expiration of the terms for which their predecessors were appointed, but any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor.

(3) Only persons who are eminently qualified by virtue of their background, education, training, and experience to review and evaluate the work of the National Intelligence Authority shall be appointed to the Board.

(4) The Board is authorized to employ such personnel as may be necessary to assist in carrying out its functions under this Act.

CONGRESSIONAL COMMITTEE REPORTS

Sec. 12. (a) The committees of the Senate and the House of Representatives having jurisdiction over matters relating to the National Intelligence Authority shall make regular periodic reports to their respective Houses on the nature and extent of the national intelligence activities of the National Intelligence Authority. Such committees shall promptly call to the attention of their respective Houses, ~~or to any~~ other appropriate committee or committees of their respective Houses, any matter relating to intelligence activities which requires or should have the attention of such House or other committee or committees. In making such report, the committees of the Senate and the House of Representatives having jurisdiction over matters relating to the National Intelligence Authority shall do so in a manner consistent with the protection of the national security interests of the United States.

(b) The provisions of subsection (a) are enacted by the Congress --

(1) the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and shall supercede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (as far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

ANNUAL REPORT OF THE DIRECTOR

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Sec. 13. (a) The Director shall prepare and submit to the committees of the Senate and the House of Representatives having jurisdiction over matters relating to the National Intelligence Authority an annual report in which the activities of the various entities of the National Intelligence Authority and the intelligence activities of foreign countries directed at the United States or its interests are reviewed and discussed by the Director.

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(b) The Director shall make an unclassified version of such annual report available to the public. Nothing in this subsection shall be construed as requiring the public disclosure, in any such report made available to the public, of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence methods employed or the sources of information on which any such report is based.

Sec. 14. The review of proposals for, and the conduct of, special activities in support of national foreign policy objectives and sensitive clandestine collection projects.

(1) Special activities in support of national foreign policy objectives are to be reserved for extraordinary circumstances when there are grave threats to the national security of the United States and when the overt means available to the U.S. Government would not allow the successful accomplishment of national foreign policy objectives.

(2) Special activities in support of national foreign policy objectives must be consistent with publicly defined U.S. foreign policy goals.

(3) A special committee of the National Security Council [hereinafter referred to as the Policy Review *ad 40 Committee* Committee (PRC)] shall be established to review special activities in support of national foreign policy objectives and sensitive clandestine collection projects. (For purposes of this section, the term "sensitive clandestine collection project" means any secret intelligence collection activity which if discovered or revealed might cause harm or embarrassment to the United States or adverse reaction from other countries.) The PRC shall consist of (A) the Director

[REDACTED] National Intelligence, (B) the Secretary of State, (C) the Secretary of Defense, (D) the Special Assistant to the President for National Security Affairs, (E) the Chairman of the Joint Chiefs of Staff; (F) the Attorney General and the Director of the Office of Management and Budget shall be eligible to participate as observers, (G) Wherever possible and appropriate, the views of the respective U.S. Ambassador(s) shall be solicited.

(4) The members of the Policy Review Committee designated by this Act can designate senior representatives to attend

in their place.

(5) No special activities in support of national foreign policy objectives or sensitive clandestine collection projects may be conducted without the approval of the PRC

(6) Each proposal for a special activity in support of national foreign policy objectives shall include: (A) a summary of the activity; (B) a statement of justification of the activity including evidence that the objectives cannot be achieved by overt means; (C) a statement as to the probability of success of the special activity; (D) a description of the expenditures required; (E) a statement of the activity's proposed duration; (F) a description of anticipated risks including the consequences of disclosure; (G) a statement of previous coordination in developing the proposal; (H) an itemized list of references to previously approved related special activities.

(7) Each proposal for a sensitive clandestine collection project shall include (A) a summary of the activity; (B) a statement of the justification of the activity including evidence that the information cannot be obtained by overt means; (C) a statement as to the probability of success of the clandestine collection project; (D) a description of the expenditures required; (E) a statement of the activity's proposed duration; (F) a description of anticipated risks including the consequences of disclosure; (G) a statement of previous coordination in developing the proposal; (H) an itemized list of references to previously approved related clandestine collection projects.

(8) Favorable recommendations to the President shall be made only upon a favorable vote of a majority of those members present after consideration of the proposed special activity or sensitive clandestine collection project in a formal meeting of the Policy Review Committee. No formal

meeting of the Policy Review Committee may take place without a majority of the members present.

(9) Favorable recommendations to the President shall include the proposal and written statements from each of the members. This is to be forwarded to the President along with an opinion of the Attorney General on the legal aspects of the special activity or sensitive clandestine collection project.

(10) No special activity in support of national foreign policy objectives may be implemented unless and until the President certifies that it: (A) is consistent with publicly defined U.S. foreign policy goals; (B) is necessary to meet an extraordinary circumstance in which there is a grave and threat to the national security; (C) that the overt means available to the United States Government are not sufficient to allow the successful accomplishment of U.S. national foreign policy objectives; and notifies the appropriate committees of the Congress.

(11) The Director of National Intelligence is responsible for reporting to the Congress such Presidential certification and shall also be responsible for keeping a written record of the time, manner, and content of the report which he makes to the Congress including congressional reaction and responses.

(12) The Policy Review Committee shall also engage in an annual review of all special activities in support of national foreign policy objectives and all sensitive clandestine collection projects.

(13) The Policy Review Committee shall also be informed of significant or major changes in any special activity or sensitive clandestine collection project, as well as any security problems related thereto. The appropriate committees of Congress shall also be advised in a timely manner, of significant or major

changes in any special activity or sensitive clandestine collection project and any security problem related thereto.

(14) The Director of National Intelligence shall be required to submit a semi-annual report on all special activities in support of national foreign policy objectives and all sensitive clandestine collection projects to the committees of Congress having jurisdiction over the National Intelligence Authority.

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(15) Special activities in support of national foreign policy objectives shall be conducted only by the Central Intelligence Agency unless the Director of National Intelligence certifies that the objectives cannot be achieved by the use of the Central Intelligence Agency and designates another entity within the National Intelligence Authority to conduct the particular special activity. *

(16) The President must approve the choice of another component within the National Intelligence Authority to conduct the particular special activity.

(17) The notice to the appropriate committees of Congress must specifically include the fact that the special activity is being implemented by an agency other than the Central Intelligence Agency.

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(18) In no case shall special activities in support of national foreign policy objectives include political assassination, efforts to subvert democratically elected democratic governments, or support of the writing or production for open distribution within the U.S. of any book, article, film, or tape, unless publicly attributed to the NIA.

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(19) In no case shall any component of the National Intelligence Authority utilize (a) journalists accredited to U.S. media organizations, (b) individuals who regularly contribute material for distribution by any U.S. media

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organization, (c) individuals who are involved directly or indirectly in the editing of material for any U.S. media organization, (d) individuals who act to get policy for or provide direction to any U.S. media organization (e) individuals who are receiving funds from any program of the U.S. designed to promote education, the arts, humanities, or cultural affairs, or (F) individuals who follow religious vocations, for special activities in support of national foreign policy objectives or for sensitive clandestine collection of intelligence.

(20) No U.S. Government personnel or U.S. citizens may be used as combatants in covert paramilitary activities unless the appropriate committees of Congress are notified pursuant to this Act and Congress authorizes their use within 60 days, provided however that the Congress may terminate their use at any time.

(21) Clandestine collection of intelligence by human sources shall be conducted only by the Central Intelligence Agency unless the Director of National Intelligence certifies that the objectives of the clandestine collection project cannot be achieved by the Central Intelligence Agency but can be achieved by the use of another entity within the National Intelligence Authority. The Director of National Intelligence must notify the committees of the Congress having jurisdiction over the National Intelligence Authority of the nature of the clandestine collection project and the reasons for the choice of an entity within the National Intelligence Authority other than the Central Intelligence Agency.

COUNTERINTELLIGENCE COMMITTEE

Sec. 15. (a) There is established within the National Security Council a committee to be known as the Counterintelligence Committee.

(b) The Counterintelligence Committee shall be composed of:

- (1) the Attorney General of the United States, who shall be the chairman;
- (2) one of the two Deputy Secretaries of Defense, as designated by the Secretary of Defense;
- (3) the Director of National Intelligence;
- (4) the Assistant to the President for National Security Affairs.

(c) The function of the Counterintelligence Committee shall be to coordinate and review counterintelligence activities. As part of such coordination and review, such committee shall insure that all such counterintelligence activities are conducted in strict conformity with the Constitution and the laws of the United States and shall make an annual report to the appropriate committees of Congress certifying that such activities have been so conducted, or, if the Counterintelligence Committee has reason to believe that any such activity has not been so conducted, certifying which such activities have been so conducted and which have not.

(d) The Counterintelligence Committee shall review the standards established by each intelligence agency for the recruitment of intelligence agents.

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Section 1. Title

Section 2. Purpose

The purpose of the bill is to assure that U.S. intelligence activities are properly and effectively directed, regulated and administered; to provide useful information and analysis to the executive and legislative branches to assist them in protecting United States security interests; and to assure that U.S. intelligence activities do not violate the rights of Americans and other persons. The bill thus responds to three needs which the Committee believes are the most pressing facing the intelligence community: ① improved management; ② providing reliable information in which policymakers have confidence when and where it is needed; ③ and preventing intelligence abuses.

(1) "Intelligence activities" means (a) the collection of information related generally to defense foreign affairs; (b) counterintelligence activities; and (c) covert action (referred to in this bill as "special activities").

(2) "National intelligence" means information produced for the use of national policymakers. It does not include tactical or departmental intelligence. National intelligence would thus include information regarding Soviet military strength and overall military deployment, but not the position of a particular destroyer, which would be important information for a Naval commander in the area.

(3) "National intelligence activities" means activities for the purpose of obtaining national intelligence. The activities of a number of agencies are specified as falling within this definition, but the President is authorized to designate other activities which fall within the definition as well.

(4) "Tactical or departmental intelligence" means intelligence principally used within departments or agencies or by tactical commanders in the field not used by national policymakers. The example of the position of a Soviet destroyer described above would be tactical or departmental intelligence.

(5) "Tactical or departmental intelligence activities" means activities for the purpose of obtaining tactical intelligence. The use of radar on American ships and planes, for example, falls generally within this category.

(6) "Intelligence community of the United States" means all elements of the government to the extent that they are engaged in national intelligence activities. Where some entities are engaged in national intelligence activities as well as other activities, they shall be subject to rules governing the intelligence community of the United States only with respect to their national intelligence activities, unless otherwise specified in this or other law.

(7) "National of the United States" means a citizen of the United States or permanent resident alien. Permanent resident alien is described in this paragraph as a person who, though not a citizen of the United States, owes permanent allegiance to the United States. This is the same term used in the Immigration and Naturalization Act to mean permanent resident alien.

(8) "Special activities" means activities, other than the production of information, which are designed to further the foreign policy objectives of the United States. These activities are carried out in secret and generally known as covert actions. They are to be carried out under the direction and control of the National Security Council and subject to the oversight of the appropriate committees of the Congress.

(9) "Attorney General" means the Attorney General of the United States.

(10) "Continuing resolution" means a joint resolution of Congress to fund a department or agency temporarily, pending enactment of the appropriate regular appropriation act.

Section 4.

There is established the National Intelligence Authority (NIA) which is to operate under the National Security Council (NSC), and to be composed of all entities of the U.S. intelligence community. Its function is to collect, analyze, and disseminate useful intelligence to the Executive and legislative branches, and to engage in special activities through the CIA.

~~The collection, analysis and dissemination of intelligence is assigned to the CIA in the National Security Act of 1947, and the CIA will continue to~~
carry out at least some of these functions. Ultimate responsibility for producing intelligence, however, is now being placed in an authority composed of all elements of the intelligence community, the director of which will be able to manage the various agencies more effectively than the Director of Central Intelligence.

Section 5. Director and Deputy Director

A Director of National Intelligence (DNI) and a Deputy Director (DDNI) are to be appointed by the President with the advice and consent of the President. The DNI would head the NIA and assume the role currently held by the Director of Central Intelligence as chief intelligence officer of the government. The roles of chief of the CIA and chief intelligence officer would thus be separated. Any preference which the Director might have, based on institutional loyalty, for the intelligence product of his own agency, would thus be eliminated. In addition, it

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is expected that the various intelligence agencies other than CIA will accept most readily the management of an official not associated with a "competing" agency, and that the DNI will have more time to devote to this important task than is presently the case with the DCI.

Because it is important that the DNI, in particular, have the confidence of the President, both officers shall serve at the pleasure of the President. To facilitate congressional oversight of the work of these two officers, neither may serve for more than six years without being reconfirmed by the Senate. In no event may either officer serve more than twelve years.

Either the Director or his Deputy, but not both, may be a commissioned officer of the armed forces. If a commissioned officer does serve in either of these posts, he shall not be subject to any military command during his tenure as Director or Deputy Director. The purpose of these provisions is to permit the President to draw from the armed services for his Director if he chooses, but to stress the importance of civilian control over intelligence. The armed services both produce and use national intelligence, but their role is not to make policy, nor are their interests always the same as those of policymakers. They should not be permitted to control the intelligence provided to policymakers.

The provisions of this section regarding the military status of the Director of National Intelligence and his deputy are identical to those governing the Director and Deputy Director of Central Intelligence in the National Security Act of 1947.

The DNI is assigned the duty and responsibility, under the guidance and with the approval of the NSC, "to direct and control the national intelligence activities of the United States."

This language is designed to assign to the DNI more power to manage the intelligence community than is presently available to the DCI, who "coordinates" but does not "direct and control."

It is to be the responsibility of the President to establish what are national intelligence activities, and thus what is the jurisdiction of the DNI. He does so, however, with the guidance of the NSC and the DNI himself, who is authorized to review all departmental or tactical intelligence activities, and all intelligence-related activities. The DNI shall make recommendations to the President, the NSC, and the congressional committees on any intelligence activities he deems necessary, although his authority to "direct and control" extends only to national intelligence activities.

The duties of the DNI are further outlined as follows:

(1) The DNI is to serve as the President's primary advisor on national intelligence, and to provide the President and other executive branch officials with accurate, relevant, and timely foreign intelligence;

(2) The DNI is to keep the President and the committees of the Congress having jurisdiction over the National Intelligence Authority fully and currently informed of all intelligence activities of the United States, including any significant anticipated activities, but this provision does not require the approval of any congressional committee prior to the implementation of any

intelligence activity. The language of this paragraph is very similar to that of S. Res. 400, establishing the Select Committee on Intelligence and expressing the sense of the Senate that the various intelligence agencies should keep the new committee fully and currently informed of their activities. This paragraph assigns this responsibility to one official, the DNI, and requires reporting to all committees having jurisdiction over the NIA, including any intelligence committee which may be established in the House of Representatives. Also, unlike the similar provision in S. Res. 400, this paragraph, if enacted, would have the force of law.

(3) The DNI is to inform the President, the NSC, and the "appropriate committees of Congress" on the relationship between national intelligence activities and other intelligence activities of the United States. This means informing the appropriate officials on what intelligence, at any given time, is necessary for policymaking purposes, and what is useful primarily as department or tactical intelligence. The term "appropriate committees of Congress" is used here, rather than "committees having jurisdiction over the National Intelligence Authority", as above, because committees not directly concerned with national intelligence will have an immediate and direct interest in tactical intelligence.

(4) The DNI is to provide for the effective direction, management, and coordination of the entities which make up the NIA.

(5) The DNI is to prepare an annual budget of all U.S. national intelligence activities for presentation to the President. This is a change or at least a clarification from present budget procedures as outlined in Executive Order 11905. There the DCI is charged to "ensure the development and submission of a budget" and the Committee on Foreign Intelligence is to "control budget preparation and resource allocation," but the role of each is ambiguous, and neither actually prepares the intelligence budget. That is done by the individual agencies, often with no or little thought for what is going on in other agencies. The CFI can subsequently amend the various agency budgets before they are submitted to OMB, but this does not permit the same flexibility as the initial preparation. This paragraph is part of an effort to consolidate management of the intelligence community. Control of the budget is a key element in effective management.

(6) The DNI is to provide for the allocation and control of funds appropriated for national intelligence purposes.

(7) He is to establish requirements, develop plans and assign priorities for all national intelligence activities of

the United States. This language attempts to clarify a point which is ambiguous in E.O. 11905 -- the role of the DCI in actually establishing requirements -- or assigning tasks which the intelligence agencies are obliged to perform. The authority to establish these requirements, of course, applies only to national intelligence and in assigning these requirements, the DNI is required to take into account the need for the intelligence components of various department and agencies also to perform intelligence tasks assigned by the heads of these departments or agencies.

(8) The DNI is to evaluate intelligence activities to insure the efficient use of intelligence resources and the fulfillment of national intelligence requirements;

(9) He is to establish procedures to review proposals for clandestine collection of intelligence. This paragraph recognizes that clandestine collection programs are highly sensitive and should be reviewed at the highest levels to insure that they are not undertaken to obtain intelligence which can be obtained overtly, and that the risks to the national interest inherent in each proposal do not outweigh the value of any information which is likely to be obtained. The risks to be considered should include, but not be limited to, risks of disclosure of the operation and risks that policies publicly established by the United States Government, or values widely accepted by the American people, will be compromised. It is explicitly stated that these review procedures should insure that clandestine collection activities are legal and constitutional.

(10) The DNI is to receive, correlate, analyze and evaluate all national intelligence, taking into account the need to insure that diverse points of view are heard and considered. This means that the DNI is responsible for providing policymakers with useful intelligence. Where there is significant disagreement within the intelligence community with respect to interpreting raw data, he is responsible for providing policymakers with his own evaluation of the intelligence, and with providing that conflicting views are also presented. Thus, in the case of the dispute over estimates of Soviet military intentions, the DNI would be responsible for presenting his own evaluation of the available intelligence, and with providing for a presentation of the opposing view. If there is more than one significant opposing view, he is responsible for seeing that all are presented.

(Note that subsection (e) of this section provides that no entity of the NIA is prohibited from producing its own evaluation of national intelligence, which is to be provided promptly to the DNI for his use in carrying out his duties.)

(11) The DNI is to supervise the dissemination of national intelligence to appropriate departments and agencies, except that no dissemination shall be made of information which unduly infringes upon the privacy of any national of the United States or which violates any right guaranteed by the Constitution and laws of the United States. The purpose of this latter provision

is to assure that no information inadvertently or purposely obtained which infringes on the rights of any person shall be disseminated.

(12) The DNI is to make reasonable efforts to furnish the departments and agencies of the government and all tactical commanders all relevant intelligence produced by the NIA. This paragraph recognizes that, while the purpose of the NIA is to produce national intelligence, the NIA can be expected to produce intelligence which is useful for departmental or tactical purposes in addition to or instead of policymaking purposes. Efficiency mandates that such intelligence be provided to those departments, agencies, and commands which can use it. (The National Security Act of 1947 presently provides that the CIA shall "provide for the appropriate dissemination " of "intelligence relating to the National Security."

(13) The DNI is to be responsible for all relationships between U. S. intelligence agencies and the intelligence and security services of foreign governments. The entities which make up the NIA are prohibited from requesting, encouraging or approving any activity by an agency of a foreign government which the U. S. entity is itself prohibited from carrying out. For example, the CIA could not ask a foreign agency to wiretap an American abroad, if the CIA itself were legally prohibited from that activity.

(14) The DNI is to submit all agreements, arrangements, and understandings regarding relationships between U. S. intelligence agencies and foreign services to the appropriate committees of Congress, as required by the Case Amendment. It is intended that this responsibility apply to informal or unwritten agreements, as well as formal agreements.

(15) The DNI may assign to any entity of the NIA any "services of common concern" to be performed on behalf of all the NIA. One such service would be monitoring open foreign radio broadcasts.

(16) The DNI is to coordinate with the Attorney General the counterintelligence activities of the United States, this coordination to include review and evaluation of proposals for counterintelligence activities and monitoring and reevaluating such activities to insure that they safeguard and do not abridge any right guaranteed or protected by the Constitution or laws of the United States.

Counterintelligence activities as used in this bill do not include internal security activities. Thus the DNI has no responsibilities with respect to domestic terrorism or subversion. The DNI does, however, share with the Attorney General responsibility for foreign counterintelligence, a function carried out by both the FBI and foreign intelligence agencies, particularly the CIA. This bill does not anticipate that the DNI will assign to foreign intelligence

agencies responsibility for counterintelligence in the United States. Because foreign counterintelligence is carried out at home and abroad by different agencies, however, it is essential that one person, the chief intelligence officer of the government, have direct responsibility for its coordination and for assigning counterintelligence requirements. The Attorney General shares this responsibility insofar as counterintelligence affects the rights of American and other persons protected by U.S. law. He does not share the DNI's responsibility for assigning counterintelligence requirements, but he does have a significant responsibility with respect to the limits within which those requirements can be carried out.

(17) The DNI is to establish procedures for evaluating, monitoring and approving proposals for conducting special activities (covert actions) specific standards for which will be established elsewhere in the bill.

(18) The DNI is to develop security standards for the management and handling of intelligence information, for granting access to such information, and for entering into such lawful security agreements as are necessary for the protection of intelligence information, sources and methods. The security agreements in question are contracts by which a person agrees, as a condition of employment or of gaining access to intelligence information, not to disclose the information to any unauthorized person.

It is not the intent of this paragraph to assign to the DNI authority to withhold information from the legislative, or judicial branches.

(19) The DNI is to establish, in consultation with the Attorney General, procedures for the lawful protection, retention, disclosure and dissemination of information acquired by the various entities of the NIA, but no information may be retained, disclosed or disseminated if it unduly infringes upon the privacy of any national of the United States or if it violates any right guaranteed or protected by the Constitution or laws of the United States.

The purpose of the last part of this paragraph is to specify the proposition implicit in the whole of this legislation, that the NIA is subject to the same laws as anyone else. It further states that the privacy of American nationals must be protected where possible, whether or not protected by the Constitution or other U.S. law.

(20) The DNI is to be responsible for establishing and monitoring security standards, priorities, and practices for the protection of U.S. communications, and taking reasonable steps recommended by the Attorney General to protect the privacy of such communications.

(21) In consultation with the Secretary of Defense, the DNI is to formulate plans for use by the Department of Defense of such elements of the NIA as may be required in time of war.

This paragraph is based on the assumption that certain forms of

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intelligence or sources of intelligence, which in peacetime are used for policymaking purposes or to acquire national intelligence, will become essential for tactical purposes in time of war.

(22) The DNI may terminate the employment of any employee of the NIA if he deems it advisable in the interests of the United States. This language tracks that of the 1947 Act, which permits the DCI to fire any employee of the CIA, and it is considered necessary for security reasons.

(23) The DNI is to assure (on the basis of advice given by the Attorney General) that the intelligence activities of the United States serve to safeguard and do not abridge any right guaranteed or protected by the Constitution or laws of the U.S. This paragraph assigns to the DNI, as chief intelligence officer, direct responsibility to assure that the activities and agencies under his direction and control are lawful.

(24) The DNI is to provide administrative, technical and support activities in the United States and abroad as may be

necessary to perform the functions of the DNI and NIA.

(Note: Detailed administrative provisions will be set out in separate drafts and cross-referenced here. These will include: procurement, maintenance and transport; communications and data processing; recruitment and training; the provision of personnel; financial and medical services; development of cover and proprietary arrangements; entering into contracts and arrangements with appropriate private companies and institutions to provide services such as classified or unclassified research, analytical and development services and specialized expertise. The separate draft will also include appropriate limitations and procedural restrictions such as requiring knowledge of National Intelligence Authority sponsorship by the appropriate university official.

Finally, Section 6 specifies that nothing in the bill is to be construed as prohibiting collection, evaluation, and dissemination of departmental and tactical intelligence by departments and agencies otherwise authorized to engage in these activities, or prohibiting any entity of the NIA from producing its own analyses of national intelligence, but such analyses are to be promptly submitted to the DNI. The purpose of this provision is, first, to reserve the prerogatives of the individual departments and agencies with respect to departmental and tactical intelligence, which services to assist the departments and agencies themselves to carry out their own special functions, and

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which is thus best managed on a departmental or agency level. At the same time, the entities of the NIA which are involved in producing national intelligence are authorized to analyze such intelligence, and thus to contribute their own perspectives to the intelligence picture which is seen by national policymakers and by the DNI.

Section 7. Assistant Directors; staff; committees and boards

(a) The President is authorized to appoint, with the advice and consent of the Senate, not more than three Assistant Directors of National Intelligence (ADNIs). The duties of these Assistant Directors is not mandated by the bill, for it is anticipated that the needs of the DNI and the NIA will change in time and that flexibility is needed in the functions assigned to these officials. Duties suggested for the ADNIs, however, include coordination and assessment of intelligence analysis, evaluation, production and dissemination; management of clandestine collection, special activities, and counterintelligence activities; and planning, developing and managing U.S. technical collection systems.

(b) The DNI is authorized to employ such personnel as may be necessary to assist in carrying out the functions of the NIA. This staff will be similar to the present IC staff, although it may be larger, since unlike the DCI the DNI will not be able to rely as well on the staff of the CIA to carry out some of his duties. The staff may include, but shall not be limited to, employees of any entity within the NIA. (The House Appropriation

Section 8. Report of Violations.

The DNI shall report to the Attorney General, and the DNI and Attorney General shall report to the President and appropriate committees of Congress any intelligence activity which may constitute a violation of law, executive order, Presidential directive, departmental or agency rule or regulation, or constitutionally or legally protected right.

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Committee has recently suggested that a core group representing a specified percentage of the IC staff should be career employees, not detailed from intelligence agencies. A similar provision might govern members of the NIA staff.)

(c) The Director is authorized to establish such committees or boards as may be necessary to carry out effectively the provisions of the bill.

(d) The Director is authorized to establish such advisory committees as may be necessary to provide expert advice regarding the administration of this Act. Except in those unusual circumstances when to do so would compromise the national security of the U.S., a description of each committee and the names of its members are to be published in the Federal Register. In any event, the names of all committee members are to be submitted to the appropriate committees of Congress.

Section 9. Records

The Director is to maintain a record of all authorities, regulations, guidelines, decisions and implementing orders affecting the intelligence activities of the United States. A complete copy of these records is to be maintained in the Federal Register under conditions sufficient to protect the national security of the United States. (It is intended that regulations and other authorities not properly classifiable will be published in the Office of the Federal Registry. The DNI is to make any such record available, upon request, to any committee of the Congress having jurisdiction over matters relating to the NIA.

The purpose of this section is (1) to establish clearly the legal authority under which intelligence agencies are carried out; and (2) to establish clearly responsibilities for authorizing particular intelligence activities. It is intended that these records should be specific. Thus there would be no question, in the future, as to the source of an order to carry out a specific action.

Section 10. Requirements Relating to Appropriations
for the National Intelligence Authority.

(a) Funds for national intelligence activities are required to be authorized on an annual basis. (Prior to this year, intelligence funds have been appropriated but not authorized. S. Res. 400 requires that funds approved by the Senate for intelligence purposes must also be authorized.) In addition, it is required that the Congress and the President should publish such information related to the intelligence budget as is required by the Constitution, which mandates that "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

(b)(1) All funds for carrying out the national intelligence activities of the United States shall be appropriated to the Director, who shall be responsible for their allocation to the various entities within the NIA. The purpose of this provision, again, is to consolidate management of national intelligence activities through budget control.

(2) Funds may be appropriated to the Director to cover matters relating to national intelligence activities of a confidential, extraordinary, or emergency nature, and the expenditure of such funds shall be accounted for solely on the certificate of the Director. All other funds appropriated to the Director shall be subject to audit and review by the Comptroller General.

This provision is not intended to exempt the Director from reporting to the appropriate committees of Congress on the uses of funds expended on his certificate.

(c) The Director is authorized to establish a contingency fund for uses not anticipated at the time of budget submission to Congress. However, funds from this contingency fund may be expended only with the approval of the Office of Management and Budget after notification to the appropriate committees of Congress.

Section 11. Annual Review and Report

There is established a National Intelligence Authority Review Board to conduct an annual comprehensive review and evaluation of the work of the NIA and to report to the President and the appropriate committees of the Congress. The Committee is to be composed of nine members serving staggered terms, appointed by the President with the advice and consent of the Senate. The Board is to be provided with staff, and the members of the Board are to be particularly qualified by virtue of their background, education, training and experience to evaluate the work of the NIA. Their purpose is to provide continuing outside evaluation of intelligence work, to identify problems which inevitably will develop within the intelligence community, and to provide a mechanism by which those problems can be reviewed before they result in serious shortcoming in the production of useful intelligence.

Section 12. Congressional Committee reports

(a) The committees of Congress having jurisdiction over matters relating to the NIA shall make regular periodic reports to their respective Houses on the national intelligence activities of the NIA, and shall promptly call to the attention of their respective Houses or to any other appropriate committee any matter relating to intelligence activities which requires their attention. In making these reports, the committees are to take steps to protect their confidentiality when necessary to protect the national security interests of the United States.

This provision parallels a provision of S. Res. 400 related to the Select Committee on Intelligence. It provides a mechanism whereby the intelligence community can report on a regular basis to one committee on all of its activities, and that committee when necessary can act as a conduit for information of interest to other committees. This provision is not meant to absolve the executive branch from reporting to other committees with respect to intelligence information clearly relevant to their jurisdictions -- for example, the intelligence agencies report to the Armed Services Committee on a regular basis on matters within the jurisdiction of that committee, such as assessments of Soviet military strength, and the process by which those assessments are reached.

(b) This is a housekeeping provision providing that the provisions of subsection (a) related to committees' reports are enacted as an exercise of the rulemaking power of the Senate and House of Representatives, and may be amended by either House, as far as relating to that House, the same as any other rule of that House.

Section 13. Annual Report of the Director

The DNI is required to submit to the appropriate congressional committees an annual report of the activities of the various entities of the NIA and of the intelligence activities of foreign countries directed against the United States. The Director is further required to make an unclassified version of this report available to the public, but he is not required to make public intelligence sources and methods.

This section recognizes that the intelligence community, along with other agencies of the United States Government, must be held accountable to Congress and to the public. The amount of detail to be provided in these reports is not specified, although it is noted that the public report need not include intelligence sources and methods. It is intended, however, that reports to congressional committees will contain all information required by those committees to carry out their duties, and that the public report should be as detailed as possible, given legitimate requirements to protect the national security.
